



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

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Pillsbury Lake Water District  
Att: Marilyn Plourde  
9 Franklin Pierce Drive  
Webster, NH 03303

Re: Pillsbury Lake/Franklin Pierce Water System  
Webster, NH  
EPA # 2462040

**ADMINISTRATIVE ORDER  
No. WD 02-40**

November 8, 2002

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division, to the Pillsbury Lake Water District pursuant to RSA 485:4 and RSA 485:58. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. The Pillsbury Lake Water District is a political subdivision having a mailing address through its representative, Marilyn Plourde, of 9 Franklin Pierce Drive, Webster, NH 03303. Marilyn Plourde is the designated representative of the Pillsbury Lake Water District for the purpose of water supply issues.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 485:3 authorizes DES to regulate public water supplies. RSA 332-E:3 authorizes DES to adopt drinking water rules which identify criteria and standards to ensure the proper certification of water works operators. Pursuant to this authority, DES has adopted NH Admin. Rule Env-Ws 367.
2. RSA 485:43 authorizes DES to adopt drinking water rules which require community water systems to annually notify its customers of the results of water quality tests. Pursuant to this authority, DES has adopted Env-Ws 352.
3. The Pillsbury Lake Water District ("District") is the owner of a water system which serves approximately 20 service connections with an estimated population of 50 persons in the community of Webster, NH, identified as EPA # 2462040 ("Water System"). The Water System is a community water system as defined in RSA 485:1-a, I and Env-Ws 302.02(i).

**CERTIFIED OPERATOR**

4. RSA 332-E and Env-Ws 367.02 require all community and non-transient, non-community water systems to retain the services of an operator who is certified by DES to perform operating functions.

5. According to DES records, Kevin Muzzey was the certified operator for the Water System. Mr. Muzzey's certification to operate a Grade IA water system expired on December 31, 2001.
6. On May 21, 2002, DES sent a notice to the Water System informing them that the Water System was required to retain a certified operator and to notify DES of the name of the operator by June 21, 2002.
7. DES did not receive a response to its May 21, 2002 letter.
8. On July 22, 2002, a Letter of Deficiency (LOD) was issued to the Water System. The LOD requested the Water System obtain a certified operator by August 16, 2002.
9. The LOD was received by the Water System as evidenced by the signed postal receipt.
- 10 The Water System failed to obtain a certified operator by the deadline requested in the LOD.
11. On August 20, 2002, a sanitary survey was performed at the Water System by DES personnel. Mr. Muzzey attended the inspection. At the time of the inspection, the DES inspector noted in his field report that the Water System did not have a certified operator. The DES inspector provided the Water System with a carbon copy of the field report at the conclusion of the sanitary survey. Both the field report and the sanitary survey report sent to the Water System on October 3, 2002, noted that the failure to retain a certified operator was a significant deficiency.
12. At the time of the inspection, DES discussed with Mr. Muzzey his expired operator certification status. Mr. Muzzey was aware that his certification had expired. He was informed by DES that in order to be re-certified, he had to pass the small system operator examination held on October 10, 2002.
13. On October 9, 2002, Mr. Muzzey called DES and expressed a desire to take the examination on October 10, 2002.
14. RSA 332-E:4 requires that an operator desiring to be certified shall file an application with DES no later than one month preceding the date of the examination.
15. DES personnel, in a telephone conversation with Mr. Muzzey on October 9, 2002, explained the requirement to file an application 30 days prior to the examination date. However, in an effort to bring the Pillsbury Lake Water System into compliance, DES granted Mr. Muzzey permission to take the examination on October 10, 2002.
16. Mr. Muzzey failed to attend the October 10, 2002 examination.
7. To date, DES has no record of a certified operator retained to operate this system.

#### **CONSUMER CONFIDENCE REPORT**

18. Env-Ws 352 requires all community water systems to prepare and deliver a Consumer Confidence Report (CCR) to DES by July 1 of each year and to certify to DES by October 1 of each year that the requirements specified in Env-Ws 352 were met.

19. The Water System failed to produce and deliver the CCR to DES by July 1, 2002
20. On August 20, 2002 a Letter of Deficiency (LOD) was issued to the Water System. The LOD requested the Water System:
  - By September 13, 2002, prepare and deliver to the water system's customers and DES the 2002 Consumer Confidence Report containing calendar year 2001 drinking water information; and
  2. By October , 2002, submit to DES the 2002 CCR certification.
21. The LOD was received by the Water System as evidenced by the signed postal receipt.
22. DES has no record of the requested response to the LOD.

#### **D. DETERMINATION OF VIOLATIONS**

1. The Water System has violated RSA 332-E and Env-Ws 367.02 by failing to retain a certified operator.
2. The Water System has violated Env-Ws 352.03 by failing to prepare and deliver a 2002 Consumer Confidence Report to DES by July 1, 2002.
3. The Water System has violated Env-Ws 352.03 by failing to certify the 2002 CCR to DES by October 1, 2002.

#### **E. ORDER**

Based on the above findings, DES hereby orders the Pillsbury Lake Water District as follows:

1. **By November 18, 2002**, retain the services of a certified operator of the proper grade to maintain the Water System, and verify in writing to DES the name and license number of the certified operator.
2. **Within 21 days of the date of this Order**, prepare and deliver the 2002 Consumer Confidence Report containing calendar year 2001 drinking water information to Water System customers and DES in accordance with Env-Ws 352.
3. **Within 30 days of the date of this Order**, submit to DES the 2002 CCR certification.

Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

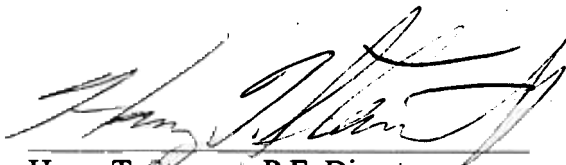
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## F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Pillsbury Lake Water District of the obligation to comply with the Order.

## G. OTHER PROVISIONS

Please note that RSA 485:58 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Pillsbury Lake Water District remains obligated to comply with all applicable drinking water statutes and rules. DES will continue to monitor Pillsbury Lake Water District's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

  
Harry T. Stewart, P.E. Director  
Water Division  
George Dana Bisbee  
Acting Commissioner

Certified Mail/RRR: 7099 3400 0003 0692 2310

cc: Michael Moore, Pillsbury Lake Water Commissioner  
Gretchen Rule, DES Legal Unit  
Public Information Officer, DES PIP Office  
Jennifer Patterson, Sr. Assistant Attorney General  
Webster Board of Selectmen  
Kevin Muzzey  
US EPA, Region 1